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HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.2402/2005

(Single Bench : Hon'ble Shri Justice S.R.Nayak, Chief Justice)

Petitioner: Rukhmani Devi, aged about 65 years, Wd/o Guljar Singh Kshatri, R/o Ward No.15, Janjgir, Tah. Janjgir, District Janjgir-Champa (C.G.)

Versus

Respondents:

1) Kumudeshwar Singh, S/o Ram Krishna Kshatri, R/o Semra, Present address Ward No.11, Janjgir, near Bhima Tank, Tah. Janjgir, District Janjgir-Champa (C.G.)
2) State of Chhattisgarh, through Tahsildar, Janjgir, Dist. Janjgir-Champa.

Present: *Shri H.V.Sharma, Counsel for the petitioner.*

Shri Utkarsh Verma, P.L. for the State.

ORAL ORDER

(Passed on 19.12.2005)

Heard learned counsel for the parties.

2. The dispute brought before this Court by way of this writ petition under Article 227 of Constitution of India has the following factual background:

3. The petitioner filed a Civil Suit No.26-A/96 for vacant possession over the Kh.No.2707/14 in the Court of Civil Judge Class-II Janjgir. Vide judgment and decree dated 31.08.2000 the suit was dismissed. On an appeal, learned Additional District Judge, Janjgir allowed the appeal by judgment and decree dated 20.03.2004 in Civil Appeal No.46-A/2002. The Second Appeal No.228/2004 preferred against the said judgment and decree of the trial Court is pending in this Court. It is stated that the Revenue Inspector demarcated the

suit land in pursuance of the order passed by Civil Judge, Class-II, Janjgir. When the matter stood thus, the respondent herein filed an application for demarcation of Kh.No.2707.29, 2732/2 and 2736 situated at Janjgir, before Tahsildar. The Tahsildar directed Revenue Inspector to demarcate the aforesaid suit-land and submit the report and register the case as Revenue Case No.21-A-6/2002-2003, Janjgir. The Revenue Inspector demarcated Khasra No.2707/29 and submitted the report. The Tahsildar confirmed the finding recorded by the Revenue Inspector by passing the order. Being aggrieved by the said order of the Tahsildar, the petitioner preferred a Revision Petition before Additional Collector, Janjgir under Section 50 of the Chhattisgarh Land Revenue Code, 1959 (for short, "the Code"). The Additional Collector, Janjgir passed an order dated 8.4.2005 and dismissed the above Revision Petition No.4-A-12/2004-2005/village Janjgir on the ground that the title of the petitioner is still sub-judice inasmuch as the same is seized by this Court in second appeal No.228/2004. In the circumstance, the petitioner being aggrieved by the above order of the Additional Collector, Janjgir dated 8.4.2005, has preferred this writ petition under Article 227 of the Constitution of India.

4. I have heard the learned counsel for the parties. It was contended by the learned counsel for the petitioner that the finding recorded by the Revenue Inspector and accepted by Tahsildar, Janjgir is quite contrary to the judgment and decree dated 20th March 2004 passed in Civil Appeal No.46-A/2002.

5. The dispute brought before this Court essentially concerns with the location and boundaries of the subject land. In other words, what has brought before this Court is essentially a question of fact which has to be resolved on the basis of evidence that may be adduced by the parties before the jurisdictional Court in summary proceedings under Article 227 of the Constitution of India. The resolution of such

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question cannot be undertaken by this Court for adjudication nor such question could be resolved finally and conclusively by this Court. Be that as it may, the very decree on the basis of which the petitioner's claim rests, is the subject matter of the Second Appeal No.228/2004 pending before this Court for adjudication.

6. Looking from any angle, this is not a fit case where this Court should undertake adjudication of the lis brought before this Court. On that short ground, the writ petition is dismissed leaving open all contentions raised in this writ petition touching merit to be agitated by the petitioner before the appropriate forum or Court.

Sd/-
Chief Justice
Judge